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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,725	07/26/2001	Todd A. Edwards	A-69861/ENB	9438

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EXAMINER
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TRAN, KHOA H

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/916,725

Applicant(s)

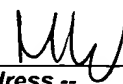
EDWARDS, TODD A.

Examiner

Khoan Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,11-18,25-30 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) 6,8,18 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,11-17,25,26,28-30 and 37-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. <u>6</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.   |

***Election/Restrictions***

Applicant's election without traverse of Species I, Figures 1-4 in Paper No. 4 is acknowledged. It should be noted that claims 1 and 11 are not generic claims because it requires the spacer to have both first and second side portions to be inclined at an angle, see claim 1, lines 8-9, and claim 11, lines 3-4. However, Species IV, Figures 9-12, does not possess this feature of two side portions at an inclined angle.

Claim 6 and 27 are withdrawn from consideration as being directed to a non-elected species because the recitation of "the first and second portions meet at an edge and each extend downwardly from the edge toward the hangers", which read on Figures 5-7. Claim 8 is depended from a canceled claim. However, claim 8 does not read on the elected species because the recitation of "the edge extends along the longitudinal centerline and the openings are spaced along the longitudinal centerline", which read on Figures 5-7. Claim 18 is not readable on the elected species because of the recitation "the first and second side portions are each inclined at an obtuse angle". Note the elected species of Figures 1-4 does not possess the side portions are inclined at an obtuse angle.

According to the reasons as mentioned above, claims 6, 8, 18, and 27 are withdrawn from consideration as being directed to a non-elected species.

The indicated allowability of claim 29 is withdrawn in view of the newly discovered reference of M. L. Daitch. The rejections based on the newly cited reference as follow.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 11-17, 37, and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Richer (U.S. Patent No. 2,827,160). Richer ('160) discloses a lightweight single layer hanger spacer comprising a unitary body (10) of a single layer of cardboard material, see Figures 5, 10, and 7, having a substantially planar central portion (14, 14') and opposite first and second side portions (15 and 17, 15' and 17') which inclined at respective angles relative to the central portion; the central portion having opposite first and second surfaces (the top and bottom surfaces of the spacer) and a longitudinal axis, the central portion being provided with a plurality of longitudinally spaced-apart holes (21, 21') extending through between the first and second surfaces of the single layer cardboard material, and wherein the inclination of the first and second side portions provide rigidity to the body. With respect to claims 4 and 13-15, the body (10) of Richer ('160) illustrates a crease lines (12) or first and second side edges (12) extending between first and second side portions and joint to the central portion, see Figures 5-7 of Richer ('160).

Claims 25, 26, 28, 39, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by R. N. Nathanson (U.S. Patent No. 3,528,590). Nathanson discloses an assembly comprising a plurality of hangers (B) having respective necks, a plurality of

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garments respectively carried by the plurality of hangers, see column 1, lines 26-48, a unitary spacer (A) extending along a longitudinal axis, the spacer having opposite first and second surfaces (the top and bottom surfaces of the spacer) and being provided with a plurality of longitudinally spaced-apart holes (11) extending through between opposite first and second surfaces for slidably receiving the respective necks of the plurality of hangers, see Figure 3; the hanger spacer resting on at least some of the garments and hangers so as to be carried by at least some of the garments and hangers; and whereby the spacing of the hangers by the spacer inhibits wrinkling of the garments. With respect to claim 26, it should be noted that the spacer of Nathanson having first side edge portion (13) inclined at an angle relative to a second side edge portion that located opposite side from the first side edge portion, see Figures 1 and 3. With respect to claim 28, it should be noted that Nathanson discloses the spacer can be made from plastic or pressed paper, etc., see column 2, lines 35-38.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 11-17, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richer (U.S. Patent No. 3,057,460). Richer ('460) discloses a lightweight single layer hanger spacer comprising a unitary body (10) of a single layer of

cardboard material, see Figures 2 and 3, having a substantially planar central portion (15) and opposite first and second side portions (16) which inclined at respective angles relative to the central portion; the central portion having opposite first and second surfaces (the top and bottom surfaces of the spacer) and a longitudinal axis. Richer ('460) also discloses a plurality of holes (39') on the central portion for receiving free end of a hanger hook. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the single layer hanger spacer of Richer ('460) to include holes on the central portion as taught by Richer ('460) in an alternative embodiment so that to secure the hanger hook therein. With respect to claims 4 and 13-15, the body (10) of Richer ('460) illustrates a crease lines (12) or first and second side edges (12) extending between first and second portions and joint to the central portion, see Figure 3 of Richer ('460). With respect to claim 5, plastic is notoriously old and a well-known material. Accordingly, it would have been obvious to one ordinary skill in the art as a matter of engineering design choice to utilize plastic as the particular material to produce a hanger spacer therefrom because it is well-within the level of skill in the art to utilize the known material to produce the hanger spacer accordingly to its suitability of intended use, for the purpose of durability, thus it does not produce any new matter.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richer (U.S. Patent No. 2,827,160) as applied to claims 1-4, 11-17, 37, and 38 above, and further in view of R. N. Nathanson (U.S. Patent No. 3,528,590). Nathanson teaches the spacer device made of plastic, see column 2, lines 35-38. It would have

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been obvious to one of ordinary skill in the art at the time of the invention was made to manufacture the spacer of Richer ('160) from a plastic material as taught by Nathanson in order to have a spacer that is substantially rigid and resilient.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over R. N. Nathanson (U.S. Patent No. 3,528,590) as applied to claims 25, 26, 28, 39, and 40 above, and further in view of M. L. Daitch (U.S. Patent No. 3,373,878). Daitch teaches a flexible tie (B1) extending through the necks of the hangers and wherein the tie having first and second ends (35) that can be tied together to prevent the pluralities of hangers from separating from one another. See Figure 4. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the spacer of Richer ('460) with the provision of a flexible tie as taught by Daitch in order to tie a series of hangers together and to prevent the slipping out of the hangers from the person hand.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. I. Richer ('482), Parker, Feder, A. Magnuson, Princiotta, and Lehmann are cited to show similar configurations of design that similar to applicant's invention.

### ***Response to Amendment***

Applicant's arguments filed on March 31, 2004 have been fully considered but they are not deemed to be persuasive.

With respect to applicant's arguments that Richer ('160) and ('460) fail to teach a spacer of a single layer of material, the examiner respectfully disagrees. It should be

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noted that Figures 5 and 7 of Richer ('160) and Figures 2 and 3 of Richer ('460) clearly show the spacer is made of a single layer. Note that the spacer is made from a single plank of cardboard. Further, it should be noted that the claims language do not preclude the spacer from having more than a single layer because the claims using open-ended language of "comprising". Therefore, it is proper to use the references as stated under 103 rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun, can be reached on (703) 308-2156. The fax phone number for this Group before a final Office action is (703) 872-9306 and after a final Office action is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Leslie A. Braun', written in a cursive style.

Khoa Tran

June 3, 2004